## UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF TEXAS HOUSTON DIVISION

CLIFFORD F. TUTTLE, JR., AS	§	
REPRESENTATIVE OF THE ESTATE OF	§	
DENNIS W. TUTTLE, DECEASED,	§	
ROBERT TUTTLE, AND RYAN TUTTLE,	§	
	§	CIVIL ACTION NO. 4:21-cv-00270
Plaintiffs,	§	
	§	
VS.	§	
	§	
CITY OF HOUSTON, et al.	§	
	§	
Defendants.	§	

#### CONSOLIDATED WITH

JOHN NICHOLAS, as temporary	§
administrator of the Estate of Rhogena	§
Nicholas and JO ANN NICHOLAS,	§
individually and as an heir of the Estate of	§
Rhogena Nicholas,	§
	§
Plaintiffs,	§
	§
VS.	§
	§
CITY OF HOUSTON, et al.	§
	§
Defendants.	§

## **DEFENDANT GERALD GOINES' MOTION IN LIMINE**

TO THE HONORABLE UNITED STATES DISTRICT JUDGE ALFRED H. BENNETT:

Defendant Gerald Goines ("Goines") offers the following:

Before the voir dire examination of the jury panel, defendant, Goines, makes this Motion in Limine. Defendant seeks to exclude matters that are inadmissible, irrelevant, or prejudicial to the material issues in this case. If Plaintiffs injects these matters in this case through a party, an attorney, or a witness, plaintiff will cause irreparable harm to defendant's case that no jury instruction would cure. If any of these matters are brought directly or indirectly to the attention of

the jury, defendant will be compelled to move for a mistrial. To avoid prejudice and a possible mistrial, Goines makes this Motion in Limine.

Defendant asks the Court to prohibit plaintiff from offering any evidence, statement or argument concerning the following matters without first asking for a ruling from the Court, outside the jury's presence, on the admissibility of the matter:

establishes a con Cir. 1992); Marq	stitutional violation. Sec uez v. City of Albuquero	Houston Police Department's procedures or policies Fraire v. City of Arlington, 957 F.2d 1268, 1275–76 (59 pue, 399 F.3d 1216, 1222 (10th Cir. 2005), the 10 <sup>th</sup> Circular County Comm'rs, 60 F.3d 702, 705 (10th Cir. 1995).
AGREED	GRANTED	DENIED
violation of the F	Fourth Amendment. See	follow generalized law enforcement standards was Fraire v. City of Arlington, 957 F.2d 1268, 1275–76 (59 que, 399 F.3d 1216, 1222 (10th Cir. 2005).
AGREED	GRANTED	DENIED
3. That Goi Fed. R. Evid. 40		lly force against Dennis Tuttle and/or Rhogena Nichola
AGREED	GRANTED	DENIED
		t after execution of the search warrant on Harding Stre Tuttle and/or Rhogena Nicholas. Fed. R. Evid. 401, 40
AGREED	GRANTED	DENIED
		y witness that Goines violated the Constitutional rights (Fed. R. Evid. 403, 701, 702.
AGREED	GRANTED	DENIED

7. Hardir	_		duct by Goines unrelated to his involvement in the f Plaintiffs' claims. Fed. R. Evid. 401, 403.	
AGRE	EED	GRANTED	DENIED	
9. Any evidence from an expert witness that is outside the scope of the expert's written opinion produced during pretrial discovery. <i>See Thudium v. Allied Prods. Corp.</i> , 36 F.3d 767, 769–70 (8th Cir. 1994).				
AGRE	EED	GRANTED	DENIED	
10. Indus.	• •	of an expert that is not 320, 1331 (5th Cir. 19	supported by admissible facts. <i>See Guillory v. Domtar</i> 96).	
AGRE	EED	GRANTED	DENIED	

### **PRAYER**

For these reasons, Defendant asks the Court to instruct plaintiff and all attorneys not to mention, refer to, interrogate about, or attempt to convey to the jury in any manner, either directly or indirectly, any of these matters without first obtaining the permission of the Court, outside the presence and hearing of the jury, and to instruct Plaintiffs and all attorneys to warn and caution each of their witnesses to follow the same instructions.

Respectfully submitted,

Dwayne R. Day, PC

/s/ Dwayne R. Day
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Attorneys for Defendant Gerald Goines

# **CERTIFICATE OF SERVICE**

I hereby certify that on October 21, 2024, I electronically filed the foregoing motion with the Clerk of the Court using the CM/ECF system which will send notification to all parties of record.

/s/ Dwayne R. Day
Dwayne R. Day